

**REMARKS**

This paper is in response to the non-Final Office Action of August 20, 2007. Applicants have amended claims 1, 3, 5, 11, 14, 15, 17, 19, 25, 26, 28-32, and 37-38. Claim 6 is cancelled. Claims 33-36 are withdrawn. The amended claims contain no new matter and are fully supported by the specification. Accordingly, the Applicants respectfully submit that pending claims 1-3, 5, 7-17, 19-26, 28-32 and 37-38 are now in condition for allowance in light of the amendments and remarks below.

**Formal Examiner Interview with the Examiner on November 7, 2007:**

As a preliminary matter, the Applicant extends his sincerest appreciation to the Examiner for granting the Applicant's request for a Formal Interview on November 7, 2007. The amended claims and the supporting remarks included in this response were prepared in view of the comments/suggestions proffered by the Examiner during the interview. Accordingly, the Applicant believes that pending claims 1-3, 5, 7-17, 19-26, 28-32 and 37-38 are in condition for allowance.

**Constructive Restriction Requirement**

Paragraph 6 of the Action indicates that claims 33-36 have been constructively withdrawn from consideration for being directed to a non-elected invention. Accordingly, the Applicant expressly reserves the right under 35 U.S.C. § 121 to file one or more divisional or continuation applications directed to the non-elected subject matter during the pendency of this application, or an application claiming the benefit of this application under 35 U.S.C. § 120.

Applicants respectfully submit that pending claims 1-3, 5, 7-17, 19-26, and 28-32, 37-38 are in condition for consideration and examination.

### **Claim Rejections Under §101**

Paragraphs 8-14 of the Action rejects claims 15-17, 19-26, 28, 31 and 32 for being directed to a non-statutory subject matter. Specifically, that the claims embrace or overlap two different statutory classes of invention, which is precluded under Ex parte Lyell 17 USPQ2d 1548.

Applicant respectfully disagrees with this conclusion, as Ex parte Lyell is directed towards situations where a single claim **claims both an apparatus/system and method steps for using the “entire” apparatus/system**. The portions of claims 15-17, 19-26 and 28 that are cited in the Action are directed towards describing **functionality of a “component”** (i.e., the administrative processor) of the system and **NOT the functionality of the “entire” system**.

Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 15-17, 19-26, 28, 31 and 32.

### **Claim Rejections Under §112**

Paragraphs 15-20 of the Action rejects claims 1, 3, 15, 17, 29 and 31 for failing to comply with the written description requirement under the first paragraph of 35 U.S.C. §112.

The Applicant respectfully requests that this rejection be withdrawn as claims 1, 3, 5, 17, 29 and 31 were amended in view of the Applicant’s in-person interview with the Examiner on November 11, 2007. Specifically, support for the “approval to store based on whether said content rating of each of said new polls was correctly assigned” and “searching said stored polls based on predefined search criteria to provide a selected set of said polls” can be found on page 15, lines 13-23 of the Applicant’s Specification. Support for “determining a minimum and maximum content rating level of an affiliated website” and “searching said stored polls to provide a selected set of said polls, wherein said searching further comprises selecting polls that

are more relevant to a user based on that user's responses to previous polls and that have content rating levels that fall within said minimum and maximum content rating level of said affiliated website" can be found on pages 17 (lines 25-30), 18 (lines 1-10) and 23 (lines 12-23) of the Applicant's Specification. Moreover, the **Applicant respectfully directs the Examiner to MPEP 2163** which states that "[i]f a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, then the adequate description requirement is met. See, e.g., *Vas-Cath*, 935 F.2d at 1563, 19 USPQ2d at 1116; *Martin v. Johnson*, 454 F.2d 746, 751, 172 USPQ 391, 395 (CCPA 1972) (stating "**the description need not be in ipsius verbis [i.e., 'in the same words'] to be sufficient**")." That is, even though the word "archiving" is not explicitly found in the Applicant's specification, if a skilled artisan would have understood that it meant "storing," the written description requirement is met.

Paragraphs 21-33 of the Action rejects claims 1, 3, 6, 14-17, 19-24, 25, 26 and 28-32 for failing to particularly point out and distinctly claim subject matter that the applicant regards as his invention under second paragraph of 35 U.S.C. §112.

The Applicant respectfully requests that this rejection be withdrawn as claims 1, 3, 5, 14, 15, 17, 19, 25, 26, and 28-32 were amended in view of the Applicant's in-person interview with the Examiner on November 11, 2007. Moreover, as discussed above, claims 16 and 20-24 are directed towards describing **functionality of a "component"** (i.e., the administrative processor) of the system and **NOT the functionality of the "entire" system** and therefore is not disallowed under Ex Parte Lyell. Furthermore, claims 16 and 20-24 were drafted in a widely accepted claim format that can be found in numerous issued patents in the art of computer software and should not be rejected as indefinite under 35 U.S.C. §112.

**Claim Rejections Under § 102:**

Paragraph 34 of the Action rejects claims 1, 3, 5, 11, 14, 15, 17, 19, 25, 26, 28-36 under U.S.C. § 102(e) as being anticipated by Hamlin et al. In light of the amendments and arguments contained herein and in view of the Applicant's in-person interview with the Examiner on November 7, 2007, the Applicant respectfully requests that this rejection be withdrawn.

**Claims 1-3, 5-9 and 11-14**

In contrast with claim 1, as amended herein, Hamlin et al. fails to teach or suggest “searching said stored polls to provide a selected set of said polls, wherein said searching further comprises selecting polls that are more relevant to a user based on that user's responses to previous polls and that have **content rating levels that fall within said minimum and maximum content rating level of said affiliated website**” (See Applicant's Claims). Specifically, Hamlin et al. merely teaches the selection of a “target group of network users” for delivering the polls (i.e., surveys) to (See Hamlin et al., Column 9, lines 36-42 and Column 11, lines 59-63). That is, assigning each of the polls to a specific target group and then statically mapping each target group to specific websites “based on the target group information that was previously supplied by the client” (See Hamlin et al., Column 11, lines 55-67). This operates differently from assigning a content rating to a poll because if you assign each poll to a discrete target audience group, you are limited to delivering the poll to just those sites that are statically mapped to the specific target group. Whereas, in Applicant's claimed invention, a content rating is assigned to each poll, stored in a central location, and then selectively delivered to any website as long as it **falls within a minimum and maximum content rating level** of the website (for example, in the Applicant's claimed invention, “R-rated” polls can be delivered to all websites that have a maximum content rating level of “R” or above but **NOT** websites having a maximum

content rating level of “PG” or below). These are mutually exclusive modes of operation and the latter has much broader and more flexible application than the former.

Moreover, further in contrast with claim 1, Hamlin et al. fails to teach or suggest “**determining a minimum and maximum content rating level of an affiliated website.**”

Hamlin et al. is entirely silent as to this limitation.

For at least the above reasons, the Applicant respectfully asserts that the rejection as to claim 1 be withdrawn. Claims 2, 3, 5-9 and 11-14 depend directly or indirectly off of independent claim 1. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 1-3, 5-9 and 11-14 as they are in condition for allowance.

**Claims 15, 17, 19-23, 25, 26, and 28**

In contrast with claim 15, as amended herein, Hamlin et al. fails to teach or suggest “determining a minimum and maximum content rating level of said website” and “searching said stored polls based on predefined search criteria to provide a selected set of said polls, wherein said searching further comprises selecting polls that are more relevant to a user based on that user’s responses to previous polls and that have content rating levels that fall within a minimum and maximum content rating level of said website” for at least the same reasons as those discussed above with respect to claim 1.

For at least the above reasons, the Applicant respectfully asserts that the rejection as to claim 15 be withdrawn. Claims 17, 19-23, 25, 26 and 28 depend directly or indirectly off of independent claim 15. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 15, 17, 19-23, 26 and 28 as they are in condition for allowance.

**Claims 29-30**

In contrast with claim 29, as amended herein, Hamlin et al. fails to teach or suggest “assigning a content rating to said polls” and “obtaining approval to store said polls based on whether said content rating of each of said polls was correctly assigned.” Specifically, Hamlin et al. is completely silent as to any approval step (based on the audience rating of the poll) that must be traversed prior to the storing of the poll.

For at least the above reasons, the Applicant respectfully asserts that the rejection as to claim 29 be withdrawn. Claim 30 depends directly off of independent claim 29. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 29 and 30 as they are in condition for allowance.

**Claims 31-32**

In contrast with claim 31, as amended herein, Hamlin et al. fails to teach or suggest “assigning a content rating to said polls...obtaining approval to store said polls based on whether said content rating of each of said polls was correctly assigned...” “determining a minimum and maximum content rating level of an affiliated website...searching said stored polls based on predefined search criteria to provide a selected set of said polls that have content rating levels that fall within a minimum and maximum content rating level of said website” for at least the same reasons as those discussed above with respect to claims 1 and 29.

For at least the above reasons, the Applicant respectfully requests that the rejection as to claim 31 be withdrawn. Claim 32 depends directly off of independent claim 31. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 31 and 32 as they are in condition for allowance.

**Claim Rejections Under § 103:**

Paragraph 50 the Action rejects claims 1-3, 5-9, 11-17, 19-23, 25, 26, and 28-36 as being unpatentable over Hamlin in view of the Article (Titled: Ratings Debate Revs Up Critics say TV's attempt at self-regulation plan won't curb controversial show content) by Nance McAlister published in Florida Times Union on January 20, 1997 on page B.1, further in view of the Article (Titled: The Media Business; G.M. Sets Big Ad Pact With NBC) by Jeremy Gerard published in The New York Times on May 1, 1990 on page D.1. Applicants respectfully request that this rejection be withdrawn as Hamlin, McAlister, and Gerard, alone or in combination, fail to make out a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). This rejection must fail as Hamlin, McAlister, and Gerard alone or in combination fail to teach or suggest each and every element of independent claims 1, 15, 29, and 31.

Specifically, for at least the same reasons as those discussed above, Hamlin fails to teach each and every limitation of claims 1, 15, 29 and 31. McAlister, and Gerard fail to cure the deficiencies in Hamlin as they are completely silent as to “assigning a content rating to said polls...obtaining approval to store said polls based on whether said content rating of each of said polls was correctly assigned...” “determining a minimum and maximum content rating level of an

affiliated website...searching said stored polls based on predefined search criteria to provide a selected set of said polls that have content rating levels that fall within a minimum and maximum content rating level of said website.”

Claims 2-3, 5-9, 11-14, 16-17, 19-23, 25, 26, and 28, 30, 32-36 depend directly or indirectly off of independent claims 1, 15, 29 and 31. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 1-3, 5-9, 11-17, 19-23, 25, 26, and 28-36 as they are in condition for allowance.

Paragraph 66 rejects claims 10, 24, 37, and 38 as being unpatentable over Hamlin in view of Boe et al. (U.S. Patent No. 6,236,975). Hamlin and Boe et al. alone or in combination fail to teach or suggest each and every element of independent claims 1 and 15. Mainly, Hamlin fails to teach or suggest each and every limitation of claims 1 and 15 for at least the same reasons as those discussed above. Boe et al. fails to cure the deficiencies of Hamlin as it is completely silent as to “determining a minimum and maximum content rating level of said website” and “searching said stored polls based on predefined search criteria to provide a selected set of said polls, wherein said searching further comprises selecting polls that are more relevant to a user based on that user’s responses to previous polls and that have content rating levels that fall within a minimum and maximum content rating level of said website.”

Claims, 10, 37 and 38 depend directly or indirectly off of claim1. Claim 24 depends directly off of claim 15. Accordingly, the Applicant respectfully requests that this rejection be withdrawn for claims 10, 24, 37, and 38 as they are in condition for allowance.



**CONCLUSION**

Applicant believes that given the above amendments and remarks, the claims are now in condition for allowance and such is respectfully requested.

The Commissioner is hereby authorized to charge the fees for the Extension of Time and any additional fees or credit any over payments due with this response to deposit account 13-0480 referencing attorney docket number 67175120-001100.

Respectfully submitted,

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Date: January 18, 2008

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